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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/672,633

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David G. Boyer

502054-A-01-US (Boyer)

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EXAMINER

MEHRPOUR, NAGHMEH

ART UNIT

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2617

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/672,633	Applicant(s) BOYER ET AL.	
	Examiner MELODY MEHRPOUR	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claims 1-8, 11-13, 16-24**, are rejected under 35 U.S.C. 103(a) as being unpatentable over *Fitchett et al.* (US Publication 2007/0167170 A1).

Regarding claims 1, 12, 17, Fitchett teaches an apparatus/method for delivering a voice mail message to a recipient, comprising:

a memory (0043); and

at least one processor, coupled to the memory, operative to (0043):

receive said voice mail message from a sender (0097);

*obtain a presence status of said sender from a presence server (0098, 0102); and
identification of at least one device where the sender is present (0102);
an deliver said voice mail message to said recipient to automatically respond to the
sender an indication of a presence of said sender (0070).*

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Regarding claims 2, 18, Fitchett teaches a method/apparatus wherein said presence server extracts presence information from a plurality of presence data stores (0043).

Regarding claims 3, 19, Fitchett teaches a method/apparatus of claim 2, wherein said presence server translates said presence information to a standard format (0102).

Regarding claims 4, 20, Fitchett teaches a method/apparatus wherein said presence server determines said presence status of said sender based on one or more rules that aggregate extracted presence information (0102).

Regarding claims 5, 21, Fitchett teaches a method/apparatus wherein said recipient responds to said sender in another domain (0102).

Regarding claims 6, 22, Fitchett teaches a method/apparatus wherein said presence information indicates if the message sender can be reached at one or more indicated devices (0098, 0102).

Regarding claims 7, Fitchett teaches a method of claim 1, wherein said presence information is obtained from a user registration process (0102, 0103).

Regarding claims 8, Fitchett teaches a method of claim 1, wherein said presence information is obtained by observing activities of a user (0102, 0103).

Regarding claims 11, 16, 23, Fitchett teaches a method/apparatus wherein said recipient can respond to said sender using a non-textual form of communication (0083).

Regarding claim 13, Fitchett teaches a method of claim 12, wherein said providing step allows said recipient to respond to said sender in another domain (0102, 0103).

Regarding claim 24, Fitchett teaches an apparatus of claim 17, wherein said presence status indicates a presence status of said sender across a plurality of domains (0102, 0103).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 9-10, 14-15**, are rejected under 35 U.S.C. 103(a) as being unpatentable over Fitchett (US Publication 2007/0167170 A1) in view of Haim (US Patent 6,718,014)

Regarding claims 9, 14, Fitchett fails to teach a method/apparatus wherein said recipient can respond to said sender in real time. However, Haim teaches a method/apparatus wherein said recipient can respond to said sender in real time (col 4 lines 5-15, col 1 lines 8-14). Therefore, it would have been obvious to ordinary skill in the art at the time the invention was made to combine the above teaching of Haim with Fitchett modified, in order to notify the user of the incoming telephone call in response to the telecommunication interface intercepting the incoming telephone call prior to ringing of the incoming telephone call.

Regarding claims 10, 15, Fitchett fails to teach a method wherein said recipient can respond to said sender in non-real time. Haim teaches a method wherein said recipient can respond to said sender in non-real time (col 1 lines 8-14, col 4 lines 5-15). Therefore, it would have been obvious to ordinary skill in the art at the time the invention was made to combine the above teaching of Haim with Fitchett, in order to notify the user of the incoming telephone call in response to the telecommunication interface intercepting the incoming telephone call prior to ringing of the incoming telephone call.

Response to Arguments

4. Applicant's arguments with respect to claims 1-24 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5. Any responses to this action should be mailed to:

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naghmeh Mehrpour whose telephone number is 571-272-7913. The examiner can normally be reached on 8:00- 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dwayne Bost be reached (571) 272-7023.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Naghmeh Mehrpour/

Primary Examiner, Art Unit 2617

April 7, 2008